## UNION PACIFIC VICTORY.

Judge Dundy Denies the Rock Island's Appeal for an Injunction.

FOLL TEXT OF THE JUDICIAL OPINION.

How He Regards the Winning Road-It Has but One Master, and That is Congress - As to the Contract.

Lincoln, Neb., Jan. 30 .- [Special Telegram to Tue Ber. |-In the United States court this afternoon Judge Dundy handed down his opinion in the noted Union Pa-cific bridge case. The decision is a great victory for the Union Pacific and is exciting considerable comment. ' As is well known a temporary injunction had been secured by the Rock Island to restrain the Union Pacific from interfering with The passage of Rock Island cars over the Union Pacific bridge. The judge declared that the motion for a temporary injunction is denied and that the motion to dissolve the

restraining order is sustained. Following is the opinion in full: This suit was commenced in the state court, in and for Dongias county, on December 30, 1890. The plaintiff alleges in its bill, that it is a corporation organized and existing under the laws of the state of Wisconsin. That it owns and operates lines of connecting railowns and operates lines of connecting rati-way from 'Chicago to Council Bluffs, Ia; that its Iowa road terminates near the ap-proaches to the Union Pacific bridge, on the Iowa side of the Missouri river; that its line of road had been extended into and through Nebraska and was being extended westward into other states; that the Union Pacific rail-road company was duly incorporated by, and exists under, and by virtue of the laws of the United States; that its eastern terminus is on the Iowa side of the Missouri river, near the terminus of the Iowa part of the plaintiff's line; that the defendant was duly authorized to build and operate a railroad and wagon bridge over the Missouri river at Omaha and Coun-cil Bluffs, which it had done, and toat it was duly authorized to levy and collect tolls for the use of the same, both as to wagon and railroad bridge, and that the defendant had full right and lawful authority to permit, and grant to, other railroad companies, the right to use the bridge, to enable them to make connections with the Iowa and Nebraska lines, so as to make connected continuous lines between the several states. It is there alleged in the bill, that on April 30, 1890, the plaintiff and defendant entered into a written contract of which the plaintiff was to have the right to the joint use of the bridge over said river and about nine or ten miles of the defendant's road, including that part of the same in Iowa

and extending into Nebraska to a point known as South Omaha; that by virtue of, and pursuant to, the said agreement, the plaintiff had commenced to operate its trains and run a portion of them over defendant's ridge and line of road as it had a right to finder and line of road as it had a right to do, and continued to do without hindrance until December 29 or 30, when the defendant through its agents and employes interposed obstacles to the free use of the same, and actually prevented the plaintiff from crossing the bridge or going upon its line of road with plaintiff's trains. Hence this suit.

plaintiff's trains. Hence this suit.

The plaintiff prayed for an injunction to restrain the defendant and its officers from interfering with the plaintiff in operating its trains on defendant's road and over its bridge, and for such other reitef, etc., etc. A temporary restraining order was allowed and issued at the time of the commencement of the other reitef. the suit, to remain in force until otherwise ordered. This order was allowed and issued without notice to the adverse party but a da was fixed on which a hearing was to be had. But before the time fixed for the hearing the defendant appeared in the state court and filed therein a petition for removal of the cause to this court for the reason that a federal question is involved in the controversy which is necessary to consider to settle the rights of the parties to the suit. On January 1801, the transcript of the case as it was made in the state court was duly filed in this court. There is attached to the bill a paper purporting to be a copy of a centract made between the parties, which provided for the joint use of the bridge and plece of the road for a period of 999 years. This paper seems to have been signed by the presidents and secretaries, and has atpresidents and secretaries, and has at-tached thereto the seals of both corporations. This contract is very lengthy and specific, and seems to provide for almost every questhat might arise and every emergency that might exist during its long existence. If this contract is a valid one, then the plaintiff is entitled to the use of both the bridge and that part of the road before described under the conditions imposed, and for the compensation named therein. But the conditions, restrictions, limitations and grants of rights and powers are so numerous that it will serve no good purpose to quote them here. On January 2 the defendant filed an answer to the bill in which it is admitted that the president and secretary of the Union Pacific signed the said paper, pur-porting to be a contract, and that the corbrate seal is attached thereto, and that i portion of the directors, called the executive committee, had approved the contract, but denfes that any contract was lawfully made by the defendant or by a majority of its di-rectors, and that the so-called contract is without force and absolutely void. A replica tion was filed in proper time and the cause came on to be heard.

1. On a motion to continue in force the temperary restraining order allowed and issued by the state court and

2. To dissolve the temporary order so allowed and issued by the state court.

The discussion of the several questions involved, or which seemed to be involved, take a wide range, and, though to some extent, perhaps, unnecessary, were not unprofitable.

The plaintiff claims that the contract was a valid and binding one; that the plaintiff and commenced to operate its trains by virtue of it, and that a mandatory injunction ought to be issued by this court to compet the de-

fendant to carry the contract into effect.

The defendant claims it never authorized the making of the so called contract and that It has no blading force for that reason. And even if it had been made by the board of directors, or the defendant company, in the usual and ordinary way, that it would ultra vires, and void for that reason. I alta vires, and vom for that reason. It is also claimed that the plaintiff has a full ade-quate, and convicte remedy at law, to re-cover in an action for damages, such amount of damages as the plaintiff may sustain if there is a breach of a valid contract. And it is further claimed that a court will not de-cree a specific performance of such a contract as this, even if it is found to be a valid and

I do not feel called upon at the present time to express any opinion with reference to the binding force and validity of the so-called contract, even admitting that it was signed by the presidents and secretaries of the two companies under their corporate seals, and approved by the executive committee of the defendant, because the defendant expressly denies that it is the contract of the defend-ant. There is nothing in this record that will enable a court to say whether or not the con-tract is a valid one. Who, or how many of the directors, or officers or stockholders constitute the executive committee does not suf-ficiently appear. It cannot be said from what the record discloses that the said committee could lawfully make such a contract or order it to be made, not to direct the president and secretary to make or approve it after it had been executed. Certainly not less than a majority of the directors of the defendant could lawfully make such a contract in the absence of statutory enactment, and my attention has not been called to any provision which seems in any way to authorize it to be done. This question must be settled by competent and proper proof before the court can be called upon to state the law that would apply to the contract, if it was made with the proper authority of the defendent. So as to the question of ultra vires. It is unnecessary to decide that until it is clearly ascertained that the defendant executed the contract as it might absence of statutory enactment, and my at

properly do if it has the lawful right and authority to do so. It is also unnecessary to nority to do so. It is also unnecessary ecide here and now whether this is such contract as a court of equity will specifically enforce. This may prove to be a very per-plexing question in the end, and without further examination I must decline to express

any opinion thereou.

But suppose the contract is a valid and But suppose the contract is a valid and binding one, in all respects and in every particular and that the contract will in the end decree specific performance of the same according to its terms, the question then arises, ought the temporary restraining order to have been allowed by the court, and ought the same to be continued in force here until a hearing on the merits can be had. The Union Pacific operates its own trains on the part of the road and bridge in question, and a large number of trains nass over the road and bridge every day and almost every hour during the day and night. The safety of the traveling public and all concerned require railroad trains to be

all concerned require railroad trains to be operated on schedule time under the direction of proper and competent train dispatch ers. This is just as necessary as it is to have proper and competent engineers and conductors and others to operate the trains. It seems to me that no well regulated railroad would permit a train to start out on its line of road until these reasonable precautions are complied with. And more especially would this be required when another road should be permitted to place its trains on and men over a bridge or road it did not own. It would be dangerous in the extreme to per-mit such a thing to be done, especially over a bridge and line of road such as those under bridge and line of road such as those under consideration here. So far as the record shows nothing of the sort was done here. There is a clause in the contract that provides for certain officers of both companies making time tables and schedules for running trains by which both parties would be bound if the contract is a valid and binding one. But if the parties could not agree upon and adopt a common time table for the commerce of both, then that fact alone would not authorize the lessee to go upon and would not authorize the lessee to go upon and over the road and bridge, to suit its own con-venience as to the time and manner of running its trains. In such a case, if either party should refuse to agree upon and adopt a proper schedule or running time for trains, a court of equity in the exercise of its proper functions would most likely find some reasonable plan to correct or supply the omission. That is, if no other or further obstacles should exist, which might make it improper for a court to interfere. If I am right in this, then manifestly, it would be improper to direct the restraining order heretofore issued to remain in force. It would follow, too, as a necessary consequence that the re-straining order heretofore allowed and issued

which is done.
The order of the court is, that the motion to continue in force the temporary order is denied, and the motion to dissolve the said order is sustained.

by the state court, ought to be desolved,

Another question of great moment and far reaching in its consequences was ably presented by both sides in arguments most claborate, and though possibly unnecessary to consider, it can not be otherwise than proper to do so. More especially as it was claimed in the agreement, that the plaintiff has the right to use the bridge and approaches independent of the contract on which the plaintiff mainly relies for the reitef here sought. This question is to me ex-tremely interesting, and I approach the contremely interesting, and I approach the consideration of it, not with the absolute certainty of being right, but with the certainty of its appearing so, at the present time. I know perfectly well that I differ, to some extent, with some of the great lawyers and judges of the present day with reference to the character of the Union Pacific railway, But the views I entertain were formed after most mature consideration and after the most mature consideration and after the fullest reflection, and I have neither seen nor heard anything for years that has tended to

shake the confidence in the correctness of the judgment I had long years ago formed. I have many a time found it necessary to examine and sometimes to construct he several laws which spoke the road into existence and which breathed life and vitality into it. I saw the road commenced. I watched its steady progress, and finally witnessed its upletion, which was the pendous railroad enterprise the world had ever beheld. The government not only authorized the building of it, but it aided and assisted, and from time to time and from the very beginning, it was mainly for its own purposes that the road was char tered. Every act of congress on the subject and every proclamation issued by the president, pursuant to law, which relates to the road, seems to recognize and treat it as a great national highway, created, aided, assisted and fostered by the general govern-ment for governmental purposes. The im-press of the government is indelibly stamped upon it, there forever to remain, unless con-gress, in the exercise of its undoubted authority, shall otherwise order and direct. No legislative power can law-impose conditions on this road without the consent of congress. It owes no sovereignties, each professing to be supreme

in its own proper sphere and where each might be constantly striving for the mastery. It is the creature of the government of the United states alone and needs no apologies for its existence. The policy of the government in creating, fostering and maintaining the road was a grand and glorious one. It has been, in the past, of untold benefit to the government and the vast number of people inhabiting the region of country traversed by it. If managed, operated and controlled as the several acts of congress require, then surely the wisdom of its creation and existence cannot be fairly questioned. If there could be a reasonable doubt of the intention of congress in the premises, a careful consideration of the legislation on the subject would remove such doubt. We find congress constantly legislating on the subject, either passin, new or changing and amending the old laws, thus evincing a settled purpose and determination

suit its purposes.

It has repeatedly declared its purpose to be the creation and formation of a great national route for the purpose of transporting the mails, stores, property and troops of the United States. The whole policy that seems to underlie every act of congress on the subject is seen in already every section. This ject is seen in almost every section. This policy seems to be to form connected, continious lines of road for the purposes aforesaid

to absolutely regulate and control the road to

wherever and whenever the government au-thorizes a read or bridge to be built.

We have sufficient authority for saying that the act of congress of 1862 chartering the Union Pacific railroad and the act of congress of 1864 amendatory thereof, authorizing the railroad company to build a bridge across the Missouri river at Council Bluffs and Omaha city, which now constitutes a part of the railroad proper. After repeatedly legis-lating on the subject congress again, on February 24, 1871, passed an act to authorize the railroad to issue bonds to build the said bridge. The title of the act expresses the

bject and all of the act necessary to consider is as follows: That for the more perfect construction of any railroads that are or shall be constructed Missouri river, at or near Counci Bluffs, Ia., and Omaha, Neb., the Union Pa-cific railroad company be, and it is hereby authorized to issue such bonds and to secure the same by mortgage on the bridge and ap-proaches and appurtenances as it may deem needful to construct and maintain its bridges over said river and the tracks and depots required to perfect the same as now authorized by law of congress, and said bridge may be so constructed as to provide for the passage of ordinary vehicles and travel, and said company may levy and collect tolls and charges for the use of the same and for the use and protection of said bridge and property Union Pacific railroad company shall be empowered, governed and limited by the provisions of the act entitled 'An act to authorize the construction of certain bridges and to establish them as post roads.' Approved July 25, 1895, so far as the same is applicable thereto; and provided, that nothing in the act shall be so construed as to change the eastern terminus of the Union Pacific rail-road from the place where it is now fixed under existing laws, nor to release said Union Pacific railroad company, or its successors, from its obligations as established by existing laws: provided also, that congress shall at all times have power to regulate said said bridge and the rates for the transporta-

tion of freight and passengers over the same and the local travel hereinbefore provides CONTINUED ON SECOND PAGE.

MOURNING IN WASHINGTON.

Universal Expressions of Sorrow Over the Death of Secretary Windom.

THE REMAINS ARRIVE FROM NEW YORK.

They are Met by the President and Cabinet and Escorted to the Residence-Tributes of Respect.

Washington, Jan. 30 .- The president and the members of his cabinet assembled at the Baltimore & Ohio station this afternoon to receive the remains of Secretary Windom, which arrived on a special train at 4:30. Besides them nearly all the public officials in Washington were at the depot. When the train arrived the casket was taken in charge by company B of the Treasury national guard and borne slowly to the hearse. When all was ready the procession formed and moved from the depot by way of Pennsylvania, Vermont and Massachusetts avenues to the secretary's residence. There the bearers carried the remains into the house through a crowd of people, who reverently bared their heads as the casket passed. The president and all his official family followed the remains into the house and waited in the back parlor while the undertaker and his associates placed the remains in the front room and opened the top half of the lid so as to expose to view the secretary's features. Mrs. Blame remained with the president and was the only lady present when the members of the cabi net were ushered into the room and looked upon the face of the distinguished dead. When the party left the house the bereaved widow and daughters entered the room and remained there a few minutes. While Mrs. Windom was kneeling over the casket sobbing the British minister called at the house and left a message of condelence for the family.

Secretary Windom's death is especially deplored by newspaper men. He was accessible to them at all times. He believed the public had a right to know what the executive departments were doing and never declined a reasonable request for information concerning the business of the treasury. It is expected that an order will be issued from the white house tomorrow canceling all

rom the winte house tomorrow cancering an official receptions and entertainments for the remainder of the season.

The funeral will probably occur Monday. Interment will be in Rock Creek cemetery.

Many telegrams of condolence have been received. Among the senders were ex-President Barrey Man Cardold Convert Alexand. ident Hayes, Mrs. Garfield, General Alger, ex-Postmaster General James, Governor Pattison, Governor Merriam, ex-Attorney Gen eral Macveagh, Archbishop Ireland and Rob-

### Tributes of Respect.

WASHINGTON, Jan. 30 .- Immediately after the reading of the journal the senate adjourned as a mark of respect to the late Secretary Windom.

After a few affecting words of tribute as to the worthy secretary of the treasury by Representative Dunnell of Minnesota, the house, on motion of McKinley, as a mark of respect to the deceased, adjourned.
The effect of the death of the secretary is

clearly visible in all the departments of the government this morning. While the treas-ury department is the only building actually closed, business is practically suspended in the others.

ent is very deeply grieved over the loss of his friend, and this morning gave General Spalding, who is acting secretary

of the treasury, ordered the department closed for today. The flags on the executive departments were placed at half mast and the treasury department was draped in mourning.

At a meeting of the bureau chiefs and heads of departments in the the treasury de-partment it was decided that they go in a

ody to the railroad station this afternoon and meet the body when it arrives. A committee to draft appropriate resolutions was

appointed.
The time of the funeral will depend upon the arrival of a son who is somewhere in the south, but probably it will take until Mon-

day.

Assistant Secretary Nettleton, who has been on a visit to Oberlin, O., is expected to reach here this afternoon and he will probably be designated to act as secretary of the reasury temporarily.

From an early hour this morning there has een a constant stream of carriages arriving at the family residence on Massachusetts avenue bearing friends who called to manilest their affection and sympathy for the family of the deceased. An executive order was issued through the

secretary of state expressing sorrow at Windom's death and directing that all departments of the executive branches of the government manifest due respect for the deceased. The treasury department was or-dered draped in mourning for a period of thirty days.

Ex-Secretary Bayard's Eulogy.

New York, Jan. 30 .- At a meeting of the board of trade and transportation this afternoon a series of highly outogistic resolutions were adopted referring to the deceased secretary of the treasury as one of the most high-minded and prominent men the country has produced in the last thirty years. The resolutions review Secretary Windom's pubic career, and in closing says that as secretary of the treasury under President Harrison "he labored courageously and successfully to avert a widespread panic in a season of threatened financial trouble. He died in speaking honest and earnest words against the madness of the free coinage of silver under the existing financial conditions. He fell at his post of duty as truly as a

oldier falls on the battle field.
Previous to the adoption of the resolutions ex-Secretary of State Bayard, in a brief speech, paid a glowing tribute to the mem-ory of the deceased. In the course of his speech he said: "In 1881 an occurrence of great importance to the country arose. The public credit and the agencies that sustained t were threatened. A strong feeling against the banking system had been expressed. Congress had adjourned and those in charge of the banking institutions were uneasy. Then this remarkable proposition was made by the creditors of the government to reduce the rate of interest on the debt due them and accept different terms for its liquidation This patient statesman and friend did me the political party, to discuss a momentous ques tion. We discussed it, and you all know how the national credit was established, how it was done without cost to the government and no finer illustration of financiering can be found than that of Willim Windom. It was the very highest pun-nacle for a man to reach. Such was one of his services not measurable by money. All heroes are not clad in uriform, neither do they all fall in battle. William Windom's call came last night. His life had been im-

periled in serving you and our land. We all join in the grief for his loss and honor and respect for his memory."

F. B. Thurber in seconding the resolution eulogized Mr. Windom, who, he said, piloted the financial ship of state between the Scylla of grangerism and Charvbdis of Wall street and perished at his post, the third secretary of the treasury in three successive admin-istrations to succumb to the active duties of the treasury department. "Is it not about time that these duties were so divided and regulated that further sacrifices of a like na-ture may be avoided?"

ture may be avoided!"

The president of the board of trade will appoint a committee of fifteen to attend the funeral. The New York Clearing House as-

sociation has appointed a funeral committee and adopted eulogistic resolutions.

Start ed Wall Street. New York, Jan. 30.—This news of the death of Secretary Windom started Wall street this morning. The only appreciable financial effect, however, was a fall in the price of silver bullion, the London price declining from 47% pence to 46% and New York declining accordingly. The death is York declining accordingly. The death is looked upon by silver men here as rendering the passage of any silver bill this session unlikely. The majority of fluanciers were of the opinion that Mr. Windom's successor would undoubtedly be a man who would carry out the policy of the dead secretary, which, it was believed, was in all respects in accord with the ideas of the president. There is much discussion as to his successor, but the only names so far mentioned are those of Senators names so far mentioned are those of Senators

A Prophetic Utterance.

Curcago, Jan. 30,-|Special Telegram to THE BEE.] - Charles Henrotin, the well known banker of this city, speaking today of the death of Secretary Windom, recalled an utterance of the deceased which seems now

prophetic.
"Two years ago, while sofourning for a day in Washington," said Mr. Henrotin, "I paid a social visit to Secretary Windom. On taking my leave I remarked; 'You must feel taking my leave I remarked: 'You must feel happy at reoccupying your pleasant quarters and taking up your work anew.' He replied, with a very grave look in his eyes, 'You hardly realize what you are congratulating me upon. While there is a great deal of glory in it, it means death to me. I shall not go out of office this term alive.'"

Legislatures Adjourn.

CHARLESTON, W. Va., Jan. 30,-The West Virginia legislature this morning adopted a esolution ordering the flags on the capitol half-masted and adjourned until Monday out of respect to the memory of Secretary Win-TOPEKA, Kan., Jan. 30--Both houses of the

Kansas legislature today adopted resolutions of respect to the memory of Secretary Win-dom. Flags are half-masted. Augusta, Me., Jan. 30,-The legislature adopted resolutions of respect to the memory of Secretary Windom this morning and ad-

#### journed until Monday. Sorrow in Minnesota.

St. Paut, Minn., Jan. 30 -Both branches of the legislature adopted resolutions expressive of sorrow at the death of Secretary Windom and then adjourned out of respect to

Governor Merriam sent a message of condolence to Mrs. Windom expressing the grief of himself and the people of the state egardless of party, at the untimely death of

Caused a Sensation in London. London, Jan. 30.-The sudden death of Mr. Windom, secretary of the treasury of the United States, caused a sensation in London generally and deep sorrow among the members of the American colony in this city. Flags on the consulate buildings are at half

# CHARLES BRADLAUGH DEAD.

The English Commoner and Icon oclast Passes Away. London, Jan. 30 .- Charles Bradlaugh, member of parliament, dled this morning.

Bradlaugh was insensible when he died and seemed to suffer no pain. The immediate cause of death was uremia.

[Charles Bradlaugh was born in the east end of London, September 28, 1833. At an early age he was a Sunday school teacher and afterwards became three-thought lec-turer. In 1850 he collisted in the Seventh dragoon guards and served some time in Ire-land. In 1853 he entered the office of a Lon-don solicitor, and soon began to lecture and write on secularist subjects, ing the pseudonyn "Iconociast." ing the pseudonyn "Iconcellast." He soon became widely known and in 1868 began his efforts to enter parliament. After three attempts he was elected from Northampton in 1880, his colleague being Mr. Labouchere. He was active in working up sympathy for France in 1870, and afterwards travelled extensively in Spain and America, lecturing in several cities. His controversy with parliament with regard to his right t take or dispense with the cath of allegianc is still familiar to the public. He was finall allowed to take his seat and took a prominen part in debate. Mr. Bradlaugh was the acknowledged leader of the secularists and headed the agitation against perpetual pensions.

A Generous Employer.

ELKHART, Ind., Jan. 30 .- While the annual reception to the employes of Conn's musical instrument factory was in progress last night fire broke out in an adjoining building and a panic was narrowly averted by the coolness of the managers. As it was two persons were hurt. M.: Conn has declared his intention of dividing next year's profits with his employes, giving them 72 per cent, to be apportioned among the different classes, and retaining 28 per cent himself.

Destitution Among Kansas Farmers Kansas City, Mo., Jan. 30,-W. H. Shrimp of Laird township, Kansas, was in the city today soliciting aid for the destitute farmers of his county. He says the people of the township are in a deplorably poor condition, the crops having falled for three seasons, and many of them have neither clothing, food nor fuel.

The Burlington's Poor Condition. CHICAGO, Jan. 30 .- Special Telegram to I'm Bee. |-It is prophesied that the Burlington statement for December will be the worst since the strike. President Perkins is reported as being thoroughly aroused over the condition of the company's affairs and to contemplate some sweeping changes in the

Satisfied Their Creditors.

PHILADELPHIA, Jan. 30.—Barker Brothers & Co., who assigned a few weeks ago, will resume business tomorrow under the firm name of Barker & Co., J. C. W. Barker haveffected a settlement with their creditors.

The Delamaters Again Arrested. MEADVILLE, Pa., Jan. 30,-At the instigation of F. W. Witter, a depositor, the members of the assigned banking company of

Delamater & Co. were again arrested this morning, charged with embezzlement. They Chicago's Ex-stayor Robbed. CHICAGO, Ill., Jan. 30.—The safe in the office of ex-Mayor Roche was blown open tonight and \$5,000 in cash carried off by obbers. The money had been received after

A Family of Eight Polsaned. DENISON, Tex., Jan. 30.-The family of James Ball, consisting of eight persons, was poisoned this morning by eating bread made with cottonseed oil. All are seriously iii.

St. Louis, Mo., Jan. 20.—The Jacksonville Southern will meet the \$2.05 rate from St. Louis to Springfield made by the Alton, to

take effect Menday. One Thousand Toolmakers Strike. PHILADELPHIA, Jan. 30., One thousand men employed in Beckmond & Miles' tool manufactory struck today for overtime for night

2 Double Tragedy Due to Jealousy. INDIANAPOLIS, Ind., Jan. 30 .- Logan Me-Afee, colored, killed his wife and suicided tonight. Jealousy was the cause.

Scotch Strikers Resume Work.

Grassow, Jan. 30.-The strikers have re-

sumed work on all roads with the exception

FOSTER FOR THE TREASURY.

Political Prophets Select Ohio's Ex-Governor for the Vacant Portfolio.

M'KINLEY'S NAME ALSO MENTIONED.

A Special Bulletin Containing Indian Statistics Issued from the Census Office-Tariff Talk and Miscellaneous.

WASHINGTON BUREAU THE OMARA BEE, 513 FOURTEENTH STREET, WASHINGTON, D. C., JEE. 30.

The prediction is made late tonight that ex-Governor Charles Foster of Ohio will be the successor to Secretary Windom, and the forecast is made in such a good quarter that it carries weight. While Major McKinley's appointment would be favorably received in every quarter, that of ex-Governor Foster, it is thought, would be better politics, viewed from several standpoints. Ex-Governor Foster's great financial success, popularity and his friendship for President Harrison are being urged as accessory arguments in faver of his selection. In the higher official circles Foster is the prime favorite tonight.

Representative William McKinley of Ohio

is also mentioned. The politicians argued that inasmuch as he will be out of public life within less than five weeks, about the time the appointment of a successor to Secretary Windom should be made, and he so well versed in the tariff law which has just been enacted and out of which many complications may grow, and is an acknowledged politician economist and financier, it would be the proper thing to call him to this position, especially since Ohio has no representative in the cabinet and Mr. McKinley is in such perfect harmony with the president, Some of his friends immediately announced that he would not accept it if tendered for two reasons: First, because he expects to run for the presidential nomination next year; secondly, because he must be had by the republican party for the gubernatorial race this fall in Onio in order to wheel that state into line again. While nearly every prominent republican acknowledged the fitness of his selection, opinion was about evenly divided between the wisdom of taking him off the race for governor this fall and his willingness to accept the treasury portfolio in view of his

Senator Spooner of Wisconsin was often mentioned at the capital during the afternoon and in official circles, but the fact that Secre-tary Rusk was appointed from Wisconsin and Senator Spooner is disinclined to enter offi-cial life when he leaves the senate in March combine to take nim out of the line of proba-

Tracy will be transferred to the treasury department. General Tracy is an able financier and would make a spiendid secretary of the treasury. He could fill with ability any place in the cabinet. The New Yorkers transfer United States Treasurer Huston of Indianated in the cabinet of the secretary of the secretar for United States Treasurer Huston of Indiana to the secretaryship of the navy, thus giving the president's state two cabinet officers. Wide suggestion is also made of the name of Colonel John C. New of Indiana, consul general to London, for the secretary of the treasury. He has had all the necessary experience in the positions of treasurer and assistant secretary of the treasury. Bince public opinion gives the first assistant secretaryship of the treasury to Congressman Baker of New York it is not believed that state will get the treasury portfolio unless state will get the treasury portfolio unless Secretary Tracy gets it by transfer.

SORROW AT THE CAPITAL.

Secretary Windom's sudden death shocked

every body at the national capital. It was so

unexpected, so tragic. No one outside his

immediate family seems to have expected such a thing could have happened. He appeared the picture of robust health. His rotund form and happy face impressed all who met him that he was destined to a long life. He was sixty-four years old, yet he did not appear fifty-four. He had scarcely a gray hair, and his face, full and round, was smooth, with the exception of light side burns. His eyesight was good, his nerves steady and his temperament always pleasant There was a combination of humanity and practicability about him that made him the typical public officer. It was refreshing to meet him officially. Instead of the harsh, brusque manner so common to men in high position, he was kind, considerate and always accessible. It was after 12 o'clock last night, when nearly all of Washington was asleep when nearly all of Washington was asleep, before the sad news of the death came down from New York. Few persons knew it till this morning. There has been little talked of in any quarter since. It was a terrible shock to Mrs. Windom and the president. By a remarkable coincidence both the secre-tary and Mrs. Windom were at the dinner table till a late hour last night-the secretary at the board of trade bunquet at Delmoni-co's in New York and Mrs. Windom at the residence of Postmaster General and Mrs. Wanamaker. While the secretary was dying at the banquet table in Gotham, Windom was cheery near the side of the president and other prominent persons around the board in this city. The picture was frequently drawn by the friends of the dead and grief-stricken lady. When the houses of congress met to immediately ad-journ out of respect to the late secretary there was but one topic of conversation. The outlook for closure, the elections bill and other important measures were never men tioned. The nation's loss in the death of Secretary Windom alone was commented upon. Not since the assassination of President Garfield has there been such universal and deep sorrow expressed. Secretary Windom was personally known to more men and women in Washington than any one connected with the administration. During his score of years in congress and his long serice in the treasury department as its active head he enjoyed a very wide range of sonal acquaintance. He gave all a pa hearing. All who met loved him. He was so different in every way from the average officeholder. It was widely stated when he officeholder. It was widely stated was called to the position by President Harrison that he was wanted for his merits. It was immaterial what state he came from or whether his apwhat state he came from or whether his appropriate the was requested by anyone. He pointment was requested by anyone. was considered the ideal man from natural inclination and experience for the secretaryship of the treasury and few questioned cared from what state he halled or why he was selected from a political point of view To the president and members of the cabinet who had enjoyed his official and social presence, the shock will long be felt. His place in many respects can never be filled by any-one. Secretary Windom was in accord with the administration in all its policies, was

clear and pleasant in his duties, and while the place may be filled by one of the ablest men of the country there will be a vacuum in hearts as well as the places of Washington. TARIFF GOSSIP. The impression is now general that the next congress will witness some important tariff legislation. The present ropublican majority is fourteen, but the election of Senators Hill, Vilas and Peffer, with the possible addition of low tariff men to succeed Sen-ators Farwell and Moody, will cut this majority down to ten. If Senator Plumb, Pettigrew and Paddock again vote with the democrats the figure is decreased to seven, making the senate stand forty-four to forty-four. Then comes in Hansbrough, a low tariff advocate, from North Dakota. Should another northwestern senator fall in line for a lower tariff the advocates of the latter policy would have sufficient strength in the senate to carry out their ideas. It is more than likely therefore that the next congress will see another prolonged tariff discussion. Its effects on the presidential campaign which will follow the next regular session of conwill follow the next regular session of con-gress is a matter of prediction only, but the willingness of the democrats to see an extra session now grows largely out of the fact

that they would like to have tied during the approaching

A special bulletin was issued from the census office showing evening tistics of hat No-Indians, from which it appe that No-braska has a total of 3,751 Indiat follows: Omaha and Winnebago agency, 5,375; Santee agency, 1,378. The grand total of Indians drawing rations in Neuriska is 185, an apparent increase of 38 since 1889. Town has 397, a loss of 12 during the past year. South Da-kota has 19,068 Indians, of whom 9,271 are males and 9,707 females. To South Dakota Indians 12,983 rations are issued, an apparent decrease of 2,358 since 1889, actual decrease decrease of 2,358 since 1889, actual decrease 238. The Indian population at the various agencies in South Dakota is as follows: Cheyenne River, 2,833; Crow Creek and Lower Brule, 2,034; Pine Ridge, 5,535; Yankton, 1,725; Rosebud, 5,381; Sisseton, 1,522. There has been a decrease of 2,169 at the Rosebud agency during the past year, which the census office says is unduringly the result of over counting or doubtedly the result of over counting or mere estimates in prior years, and that the actual decrease is about fifty, making the en-tire apparent decrease in South Dakota

MISCELLANEOUS, The senate committee on military affairs today instructed Senator Manderson to re-port favorably the bill donating 160 acres in the Fort D. A. Russell military reservation near Cheyenne, Wyo., to the state of Wyo-ming for fair and agricultural society pur-

The Manderson bill appropriating \$15,000 with which to explore Alaska and survey that country has been favorably reported from the committee. It is very probable that should this bill become a law Captain P. H. Ray of General Brooke's staff will be put in command of the expedition. He explored Alaska to Point Barrow and made a valuable

Mrs. Charles Linderman of Clarinda, In. is quite ill with crysipelas at Willard's. She is accompanied by her husband and daughter. The latter part of next week they will leave for their home via Muncie, Ind., where they will remain several days. Samuel Redstone and wife of Des Moines, Ia., and J. A. Findlay of Pine Ridge, S. D.,

John B. Furay, jr., of Omaha is at the St.

Allan Dawson of Des Moines and James Dodd of Dubuque, Ia., are at the Johnson.

Hiram B. Thomas has been appointed postmaster at Sweetwater, Buffalo county, Neb.
A pension has been granted to Bernard
Kirnan of O'Neill, Neb.

Rirnan of O'Neill, Neb.
Representative-elect Bryan will remain bere until the first of next week, looking after an appropriation of \$0.00 to pay for paying the streets in front of the government building at Lincoln.

Dr. Cyrus Pickett has been appointed a member of the pension examining board at Broken Bow, Neb.

Lowa postmaxters were appointed to the postmaxters were appointed to the pension of the pension

Iowa postmasters were appointed today as follows: Finehford, Blackhawk county, F. Bowers, vice A. A. Briggs, resigned; Tuskeega, Decatur county, A. V. Clossom, vice W. Hudson.

Perry S. Heath. Nebraska and Iowa Pensions.

Washington, Jun. 30.—[Special Telegram to The Bre.]—Pensions were granted today to the following Nebraskans. Original-Lewis E. Hayden, Curtis; Harvey R. Richards, Fremont; Martin V. Lane, Silver Creek; Thomas Munn, Talmage; Jacob Gestele Kearney; George Esser, St. Peters; James P. Fowler, Dannebrog; Ezra P. Lozey, Nepanee; Henry Rowe, Sterling; Lozey, Nepanec; Henry Rowe, Stering; Solomon Ditzell, Peru. Increase—Lyman J. Davis, Elgin; John A. Mark, Bellwood; August Kneile, Grand Island. Ressue and nerease—Isaiah S. Deal, Red Cloud; William H. Tucker, Pawnec City. Original widow's, etc.—Stephen, father of William Speakman.

Lyons.

Iowa: Original—Charles W. Calaban,
Carton; John P. Stien, Rock Rapids; Levy
Abbott, Thayer; John Bohn, Iconium; Walter
B. Goodhue, Lisbon; George Wintz, Hitesville; Joseph W. Rich, Vinton; Charles E.
Baker, Clinton; B. W. Vanderveer, Ottumwa;
Norton M. Choate, Marshalltown; Charles Palmer, Gilman: Jaco B. Kennedy. Greencastle; Chester B. Banford, Musca-tine; Milton Winterstraw, Marquette; James L. Beebolt, Atlantic; Frederick McClout, Olive; Albert Smith, Sioux City, Increase — John Fritz, Harlan; William D, Nelson, Tyngley; Nicholas Boquet, Burlington; Alex, Pierce Sheldahl; Patrick Tirney, alias Patrick Dunn, Marshalltown; William J. Crammand, Hanlon; Samuel B. From, Shelby; Walter Lee, Sigourney; William Dies, Dennis; Turner B. From. Shelby; Walter Lee, Signon, ney; William Dines, Dennis; Turner Wheatly, Hillsburg; Elijah Hogue, West Liberty; Wilder Week, Mattocks, Reissue—Rufus A. Denuct, deceased, Genoa, Reissue and increase—Nicholas Genoa, Rurlington, Original widows, etc. Bouquet, Burlington. Original widows, etc.

- Wilnelmina, widow of Frederick Ambline,
Elkport; Elizabeth E., widow of Horace

Judson, Frederick, General Brooke's Territory Extended Washington, Jan. 30 .- The secretary of war has issued an order transferring the military control of South Dakota from the department of Dakota, under command of Brigadier General Ruger, to the department of the Platte, under command of Brigadier General Brooke. The reason for this is that General Brooke's troops are within easier call of the Rosebud and Pine Ridge agencies

Ordered Off the Strip. Washington, Jan. 30.—The secretary the interior has issued orders directing that all persons not having proper authority be

#### prevented from entering the Cherokee strip on any pretext whatever. THE AIR SHIP TESTED.

First Trial.

Satisfactory Results Obtained at the CHICAGO, Ill., Jan 30 -The air ship invented by William Pennington of Mount Carmel, Ill., was tried again today, and to all appearances it was demonstrated that a craft has at last been invented that permits feats of aerial navigation never before accomplished-propelling and steering. The ship tested today is only a thirty-foot model, made of oiled silk, and the practicability of using aluminum, which is to be the material of which full size ships are to be built, has still to be shown. The car which is to carry passengers was not attached today, and the ship, which is cigar-shaped and filled with hydrogen gas, floated in the air and was propelled by a wheel like that of a propeller, the motive power coming from storage batteries on the floor attached by a light wire, rudders being set at different angles. The ship traveled in a satisfactory manner around the interior of the exposition building. The speed attained was not great but the inventor is sanguine of much better results with a satisfactory battery.

Three Murderers Identified.

CHICAGO, Jan. 30 .- The trio of toughs-Featherstone, Bennett and Corbett-awaiting trial for a daring attempt to rob the South Chicago Merchants' bank, were today found to be implicated in the murder of Michael Brezell at Despiaines some time ago. The old man was killed in his own yard and robbed of several hundred dotlars. Two men have identified the prisoners as the m in the vicinity of Brezell's house that night and overheard them plotting in a saloon.

The Weather Forecast. For Omaha and Vicinity-Snow or rain;

For Nebraska-Rain or snow; southerly, hifting to northwesterly winds; much colder by Sunday morning, with cold wave in east-For Iowa and South Dakota-Threatening

weather and snow; variable winds, shifting

to northerly; cold wave. Wrecked by a Misplaced Switch. Kansas City, Mo., Jan. 30. - A freight train on the Wyandotte & Northwestern was wrecked by a misplaced switch today and the

engineer and fireman injured. John Aroken, a stockman from Donovan, Kan., who was a sufferer from heart disease, died of fright.

PROHIBITION HOPES BLASTED.

The Bill Providing for a Recount of the Ballots Indefinitely Postponed.

RELIEF FOR THE DROUTH SUFFERERS.

The Measure Appropriating \$100,000 Passes the House by a Unanimous Vote-Proceedings of Friday's Session.

LINCOLN, Neb., Jan. 30 .- [Special to THE Bes. |- The motion to indefinitely postpone Waldron's bill providing for a recount of the votes cast for and against the prohibitory amendment in the late election was made by Mr. Stevens of Furnas. Both Waldron and Stevens are pronounced prohibitionists. It seems that Stevens did not know that the bill had been introduced by his confrere, and was not apprised of the fact until after the sentiment in favor of the motion had spread over the house and caused a buzz of excitement which had not been experienced for

several days.
Waldron did not discover that his friend had taken steps to knock out his pet measure until it was too late for the gentleman from Cornas to retrace his stens The motion prevailed as elsewhere re

Mr. Stevens was asked why he had moved for the indefinite postponement, and said that he did not know that the measure had originated with Mr. Waldron. If he had, he certainly would have treated the bill with a little more considerabill had been introduced by somebody on the other side of the house, and that it had been brought in to cause delay and incur needless expense. For his own part, though a prohi-bitionist, he felt a recount of the vote in question would do no good. The people had question would do no good. The people had aiready voted on the subject, and a majority of them had declared against prohibition. That majority, he held, was pronounced even if the vote of Douglas county should be thrown out. With this belief, he could not conscientiously vote for a recount, which would result in nothing save what was now irrown.

Mr. Stevens said there were three other prohibitionists in the same row with him-namely, Stevens of Fillmore, Gunnett of York and McCutchin of Boone, who felt as he did and were probabitionists all the same. The twelve votes opposed to the motion in no manner represented the probabitionists of the

The Relief Bill Passes the House. LINCOLN, Neb., Jan. 30. - | Special to Tite BEE. ]-On motion of Shrader the house went into committee of the whole, with Taylor of Johnson in the chair, to consider the concurrent resolution fixing the time for hearing the contested election cases for governor and other executive offices.

White said that before he would vote to fix the date for the contest cases he would like to know something of the rules that were to

govern this joint convention.

Chairman Taylor thought this matter could not properly be considered in this connection.

The resolution was reported back with the recommendation "that it do pass."

The committee then took up house roll \$1. the bill introduced by Church Howe to issue \$100,000 in bonds and use the proceeds of the same for the benefit of the western sufferers.

Howe moved to reduce the interest from 416 per cent to 4 per cent. Carried,
On motion of McKesson the name of Speaker Eider was added to the commission in place of ex-Governor Thayer, resigned, and the bill reported back for passage.

The committee also had under consideration house roll 2, by Howe, increasing the palties for selling mortgaged property naking the minimum fine \$100 and the im

prisonment not less than one year. Cornish (rep.) opposed the bill. He thought the penalty should be left to the discretion of the court, as provided by the present law.

An amendment to the bill proposed by
Howe exempted the operations of the law mortgage given to secure a loan

Howe said this was the principal change from the present law, and said the bill was intended to protect the unfortunate farmers and small dealers from the "chattel mort-Sherman (ind.) of Saline thought Howe's

bill was intended to encourage crime.
Stevens (ind.) of Furnas said queer complications were developing, and called attention to the fact that Howe had been in the legislature many years and no such been introduced. He was suspicious of leathbed repentance. White of Cass moved to amend the title of

the bill as follows: "An act to prevent the commission of a crime in case of violation of the law." [Laughter.] Felker of Douglas said he had a bill somewhat similar to Howe's, and thought that the

best way to reach usury was to make all such contracts void, as provided by this measure. Newberry (ind) discussed the bill from the standpoint of common honesty, and could see no relief for the poor man in such a law. He mid that a bill would be brought up on their side which would "lay the axe at the root of the tree.'

Cornish made further remarks against the bill, and declared he was a berrower of money himself, and opposed the measure from that standpoint.
Shrader favored the bill, with certain amendments proposed by the gentleman from After amending the bill, fixing the penalty

the same as in existing laws, the committee arose and recommended the bill back for The concurrent resolution fixing February 7 as the day for hearing the contest cases was ordered engrossed.

The relief bill appropriating \$100,000 for the western sufferers was taken up and put on final passage. AFTERNOON SESSION. Bills on second reading were taken up. Stevens of Furnas moved to indefinitely postpone the bill introduced by Waldron providing for a recount of the votes cast on

Modie (ind.) and Soderman (ind.) denanded a roll call. In explaining his vote Soderman said this was this was the greatest question before the American people and would therefore vote

Modie endeavored to withdraw the demand for the roll call, but Howe objected. The vote on the question of indefinite post-ponement resulted as follows: Ayes 81,

These voting in the negative were Arnold, Henry, Modie, Mullen, Rohan, Scott, Soderman, Taylor of Butler, Williams of Franklin, Speaker Edeer, all independents, and Heath and Williams of Gage, republicans.

The committee on privileres and elections reported in favor of the passage of the Australian ballot bill, introduced into the house by Mr. Porter (ind.) of Merrick.

The insurance committee reported back the bill introduced by Watson to prevent rebates and discrimination in life insurance, and recommended that "it do pass."

The concurrent resolution fixing the time for hearing the context cases was taken up Those voting in the negative were Arnold,

for hearing the contest cases was taken up and put on final passage. Ayes 74, navs 18. The negative votes were as follows: Ames, Bertrand, Breen, Brennan, Decker, Ford Gardner, Gerdes, Hall, Hose, Johnson, Lamp, Ritchie, Schiotfeidt, Severin (rep.) Shipley, Shryock and White. The bouse also passed the following:

A bill by Howe providing for the issue of \$100,000 in 4 per cent bonds to run five years, the proceeds to be used in relieving the necessities of the drouth stricken sufferers and for purchasing seeq -87 to 5.

A still by Waldron appropriating the sum of \$75,000, for the payment of the salaries and expenses of members and employes of

the legislature. The enate.

LINCOLN, Neb., Jan. 29 .- [Special to THE BEE. |- The senate began business by listening to the reading of two invitations to mee